

**CITY OF MILPITAS
UNAPPROVED**

PLANNING COMMISSION MINUTES

October 27, 2004

**I.
PLEDGE OF
ALLEGIANCE**

Chair Lalwani called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Lalwani, Galang, Garcia, Giordano, Mohsin and Sandhu
Absent: All present
Staff: Cuciz, Duncan, Heyden and Lindsay

**III
PUBLIC FORUM**

Chair Lalwani invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

Martha McNolte, 323 Parkhill Drive, stated that she would like to have this issue put on the agenda. She expressed her unhappiness about a political mailing that arrived at her home and her concern that it is unethical. She stated that she is concerned about Police and Fire being involved as the citizens' look to them for safety and integrity. She noted that if a resident reads the literature and does not have all the background information, this could frighten them. She asked about the need for an employee group to reject a candidate.

Rob Means, 1421 Yellowstone, stated that he felt this is an opportunity to go before the public to question the political mailer. He noted an issue in the mailer about the Shapell building where the rent is low and stated that the building would be knocked down soon to build a Safeway store and that is why low rent spaces are being provided. He noted that all candidates for City Council voted in favor of this Safeway being built in that area and he feels that the mailer is an attack piece.

**IV.
APPROVAL OF MINUTES
October 13, 2004**

Chair Lalwani called for approval of the minutes of the Planning Commission meeting of October 13, 2004.

Motion to approve the minutes as amended.

M/S: Sandhu/Giordano

Abstention: Garcia

AYES: 6

NOES: 0

**V.
ANNOUNCEMENTS**

Mr. Lindsay announced that two surveys were provided to the commission from the Recreation Department. They are in the process of looking at different ways to conduct the Commissioner Recognition Event. The commissioners are encouraged to fill out the surveys.

Commissioner Mohsin announced that on the first Friday of each month, the Milpitas Parents Preschool is going to present a free art and science enrichment class for children and parents. Everyone is welcome. The schedules are posted on channel 15. The address is 355 Dixon Road.

**VI.
CONFLICT
OF INTEREST**

Kit Faubion, City Attorney, noted that this is the first time this item has appeared on the Planning Commission agenda. It is recognizing that Planning Commissioners are among the decision makers for the City of Milpitas that are required to declare if they have a conflict of interest on a particular item on the agenda. There are complicated rules and statutory regulations that address conflict of interest and this provides a regular place on the agenda for the commissioners to advise if there is a conflict of interest. If there is a conflict, the commissioners would identify the item, the reason for the conflict and when the item is called the commissioner would then leave the room for the hearing on that item and return afterwards. This will routinely be placed on the agenda from here forward.

There were no commissioners that identified a conflict of interest.

**VII.
APPROVAL OF
AGENDA**

Chair Lalwani called for approval of the agenda.

There were no changes from staff.

Motion to approve the agenda.

M/S: Sandhu/Giordano

AYES: 6

NOES: 0

**VIII.
CONSENT CALENDAR
Consent Item Nos. 3, 4, 5, 6,
7, and 8**

Chair Lalwani opened the public hearing on Consent Item Nos. 3, 4, 6, 7, 8

Mr. Lindsay noted two changes. A memo from Kim Duncan was distributed noting a special condition of approval for item #7, of which the applicant is agreeable to the change in condition. Staff is recommending that this item should remain on the consent calendar.

Mr. Lindsay asked if the commission would consider adding item #2 to the consent calendar.

Motion to add item #2 to the consent calendar.

M/S: Giordano/Sandhu

AYES: 6

NOES: 0

Vice Chair Garcia asked staff about item #6 regarding the street name charity raffle. He asked what would happen if a street name is unacceptable. Mr. Lindsay stated that any street name would need to be approved by the Police Department 911 Communications to ensure there are no conflicts. Vice Chair Garcia wanted to make sure that parameters are set. Mr. Lindsay said yes.

Chair Lalwani opened the public hearing on Consent Items Nos. 2, 3, 4, and 5.

There were no speakers from the audience.

Close Public Hearing

Motion to close the public hearing on Consent Item Nos. 2, 3, and 5.

M/S: Giordano/Garcia

AYES: 6

NOES: 0

Motion to approve the consent calendar on Consent Item Nos. 2, 3, 4, 5, 6, 7, and 8.

***2 USE PERMIT NO. UP2004-28:** A request for a parking reduction of nine (9) parking spaces for a funeral supply store located in the Mixed Use District with a Transit Overlay (MXD-TOD) at 27 Winsor Street (APN: 028-24-028). Applicant: Kenos Inc. Project Planner: Troy Fujimoto, (408) 586-3287. (PJ# 2347) *(Recommendation: Approval with Conditions)*

***3 USE PERMIT NO. UP2004-24 and 'S' ZONE APPROVAL-AMENDMENT NO. SA2004-85:** A request to install six (6) telecommunication antennas on a new light standard and associated ground-mounted equipment at the Milpitas Sports Center, located at 1325 East Calaveras Boulevard (APN: 029-17-004), zoned Parks and Open Space (POS). Applicant: Verizon. Project Planner: Kim Duncan, (408) 586-3283. (PJ# 2393) *(Recommendation: Approval with Conditions)*

***4 USE PERMIT AMENDMENT NO. UA2004-8 AND AN ADDENDUM TO EIA NO. 749:** A request to modify two (2) conditions of approval related to the re-use of 60,000 square feet of gross leasable area within the Great Mall shopping center and to adopt an Addendum to a Mitigated Negative Declaration in the General Commercial District (C2) at 1100 South Main Street (APN: 086-24-055). Applicant: The Mills Corporation. Project Planner: Troy Fujimoto. (PJ# 2397) *(Recommendation: Continue to December 8, 2004)*

***5 CONSIDERATION OF ZONING ORDINANCE TEXT AMENDMENT NO. ZT2004-4:** The City proposes to amend the Zoning Ordinance adding tutoring centers as a conditional use in the Highway Services District. Project Planner: Staci Pereira, (408) 586-3278. *(Recommendation: Recommend adoption of ordinance to City Council)*

***6 KB HOME STREET NAME CHARITY RAFFLE:** A request from the Milpitas Unified School District (MUSD) for approval of a street name raffle for a street in the KB Home Development. Staff Contact: Tambri Heyden, (408) 586-3280. *(Recommendation: Approval)*

***7 "S" ZONE APPROVAL-AMENDMENT NO. SA2004-94:** A request to construct a 7-foot wooden enclosure and install exterior equipment at the front of an industrial building located at 212 Railroad Avenue, (APN: 028-23-009), zoned Heavy Industrial (M2) with Transit Oriented Development (TOD) overlay. Project Planner: Cindy Hom, (408) 586-3284. *(Recommendation: Approval with Conditions)*

***8 "S" ZONE APPROVAL-AMENDMENT NO. SA2004-90:** A request to install seven (7) new trash/tallow enclosures constructed of chain link with vinyl slats located at 190 Barber Lane (Milpitas Square Shopping Center) (APN: 086-01-043), zoned General Commercial (C2). Applicant: Milpitas Square, LLC. Project Planner: Kim Duncan, (408) 586-3283. (*Recommendation: Approval with Conditions*)

IX. PUBLIC HEARING

ENVIRONMENTAL IMPACT ASSESSMENT NO. EA2004-8, 'S' ZONE APPROVAL NO. SZ2004- 3, USE PERMIT APPROVAL NO UP2004-7

Ms. Duncan presented item 1, Environmental Impact Assessment No. EA2004-8, 'S' Zone Approval No. SZ2004-3, Use Permit Approval No. UP2004-7. Ms. Duncan noted that veterinary clinics, hospitals and kennels are allowed uses within this area. This facility will be located at the old Holland Pacific Hitch building. The applicant is requesting demolition of the 58,000 square foot building on site and to construct the 47,990 square foot building that will be an animal facility with rooms for medical/surgical, animal daycare, boarding, a pet store, classrooms, ancillary retail offices and a behavioral and social evaluations area. Site improvements include landscaping in two phases. Upon building it will include 52 new trees, an open grass area for a dog park, various plants and shrubs and vinyl clad chain link fencing around the dog park perimeter and area site. Parking will take place along perimeter and the rear of the project site as well as in the front of the building. The lighting proposed is wall mounted pictures as well as poles throughout the site. The applicant is requesting removal of 13 protected trees to make room for the development. The city standards do not address parking requirements for animal facilities; however, the commission can approve parking requirements. The applicant submitted a parking study that indicated 140 parking spaces that should be plenty of parking. Only 105 are required so this should be ample parking. The applicant is requesting 19 compact spaces at the rear of the building for staff only. There would be a 23,000 square foot dog park in front of the facility for members with an area for small and large dogs. The primary issues addressed were traffic impacts, biological resources and hazardous materials. The applicant submitted a traffic impact assessment that the transportation planning staff reviewed and it was determined that the increased parking on So. Milpitas toward Montague would create an impact and an impact of \$53,238 was determined. However, the applicant is requesting deferral of this condition and requesting additional time to verify parking. The project site includes 2.2 acres of open area that has not been developed. A burrowing owl study was conducted it was determined that no owls or evidence of owls are present. However, there is a condition of approval included that the applicant needs to submit another survey for burrowing owls if development does not commence by the end of the year. Due to the variety of ages and the possible concentration of children, the applicant submitted a risk assessment, which the Fire Department reviewed. It was determined that two facilities within a quarter that have hazardous materials. Therefore the conditions of approval required the applicant to submit an emergency action plan. Staffs' recommendation is to adopt the initial study and mitigated negative declaration, approve the S Zone approval and use permit.

Commissioner Giordano had a question regarding the removal of 21 trees on site, 13 of which are protected. She asked if the 21 trees would be removed with 88 new trees being planted. Ms. Duncan stated that upon build out there would be a total of 92 trees on site. Commissioner Giordano had questions regarding the number of parking spaces. Ms. Duncan noted that the project plans indicate 43 spaces provided including compact spaces for staff, making a total of 54 spaces for staff. Public parking totals 86. Project site will have a total of 140 spaces. Staff noted that the peak demand is 105, therefore there is plenty of parking on site. Commissioner Giordano asked if the 34 overflow spaces are on site. Ms. Duncan said yes.

Christine Beninger, President of the Humane Society of the Silicon Valley. She stated that her organization is thrilled to locate in Milpitas. They looked for locations for three years and wanted a place that would embrace them. They have been serving the community for 75 years and have 30,000 members making them a long serving and well supported organization. Their plans are for a state of the art animal facility that will break the paradigm of what an animal facility is about. They have hired a project manager and architect. Their goal is to raise the bar on how animal facilities interact with the community and how they serve the community and animals.

Scott Marium, Project Manager stated that this is a unique project. He has worked with the architect on the humane society project in San Diego. He noted that this project does break the paradigm of how animals are held and creates a habitat similar to home. This will be unique to the Milpitas community.. He commended the city for being very thorough and they have worked through a number of issues. He noted that construction costs are skyrocketing including the cost of structural steel, which has risen 50%, and plywood has tripled from a year ago. This is a challenge for a nonprofit organization having to raise funds. They are asking that the fees mentioned by staff should be deferred until they can show the actual impact. They may consider going to the City Council for a fee reduction. He noted that this would be a very nice facility for the community.

George Meyers, Architect, noted the positive experience working with city staff and that the Planning, Building and Engineering Departments were very helpful. He noted that he has worked on similar projects from across the country. This will be a multipurpose center that celebrates all the different aspects of caring for animals, as well as an educational facility for children and other groups. There will be classrooms that can be used after hours used by the community. There will be a major adoption facility that would have dog and cat habitats and no cages in order to better socialize the animals. There will be a doggy daycare facility with a separate entrance and boarding and veterinary facilities. Medical procedures can be viewed in the classroom. There is also a café. The exterior of the building attempts to be a warm through the use of stone, yet playful with a combination of colored metal and animal figurines and embossed animal figurine lighting. The campus has 140 parking spaces, more than has been provided anywhere across the country. They are proposing the use of decomposed granite for overflow parking, which will atheistically look a lot better.

Bob Fukushima, landscape architect, noted that the overall landscape concept was to provide an area for the dogs to interface and exercise and an area for programs outside of the turf area. The landscape is designed for low water use and is drought tolerant. This is an optimal site and there will be an area for all weather use that has artificial turf. The back of the site is designed for a garden feel

Motion to close the public hearing.

Sandhu/Mohsin

AYES: 6

NOES: 0

Commissioner Galang asked why they chose Milpitas and the site on Ames. Ms. Beninger noted that it took three years to find an appropriate site. The plans they have fit the Milpitas community as Milpitas embraces family and establishes businesses and housing that supports the family and family structure. This is consistent with what her organization is doing and this makes Milpitas very appealing. Given the type of use for an animal facility, they are relegated to heavy industrial zones. There are very few industrial areas where you want to bring people and they were thrilled with the corridor along Ames as this is a beautiful industrial area where they would feel comfortable bringing their customers and their staff would feel comfortable there as well.

Commissioner Galang asked about the dog park. Ms. Beninger noted that it would be for members only in order to create safety. In order to be a member there will be a small fee, but the main criteria is that the dogs must have had shots, been spayed or neutered and temperament tested.

Commissioner Sandhu asked when the facility would open. Ms. Beninger stated that their goal is two years, however, they need to raise more money. Commissioner Sandhu asked if there is a concern about animal odor. Ms. Beninger noted that everything is enclosed. George Meyers almost guaranteed that there would be no odor. Ms. Beninger stated that there would be three types of areas; one for animals that are either being prepared or are available for adoption and animals that people will bring in for day care or boarding, and the medical center or use of the dog park. There will be a total of approximately 40 to 60 dogs and 40 to 80 cats on sites, with about 10 to 50 animals in and out on a daily basis. In terms of noise, if a dog that exhibits extended barking, it would be taken inside. The animals will always be under supervision. There will also be a sophisticated system of sound walls inside. Ms. Beninger noted that their plans are for dogs, cats and rabbits to be on site and available for adoption. They do not have plans for exotics, farm animals or smaller animals. Currently, they do take everything in that is brought to them, then they get other specialized facilities to obtain these types of animals. George Meyers noted that there is a 12 X 9 room that is labeled wildlife. This room is for occasions where someone might come in with a bird that fell out of tree so this is a holding area until a wildlife rescue group can be notified and the animal can be picked up. Ms. Beninger noted that this is a great service for the community if they need to urgently drop off wild life and these animals are usually picked up by other organizations within 24 hours.

Vice Chair Garcia stated that he applauds this project and is happy to have it located in Milpitas. He has questions regarding the handling of animal waste. Ms. Beninger noted there are procedures for this disposal. There will be euthanasia on site when needed. They offer a service for the public who would like to put their animal down and they can be there with their animal in a home like environment during this process. Once this facility is built, they will no longer be handling animal control contracts, which will reduce the number of animals being euthanized at their site. There will be a few that are euthanized due to temperament and illness. The animals are picked up out of a cooler. Mr. Meyers noted that the cooler is placed at the rear of the building and with secure access. In terms of waste, Ms. Beninger stated that waste in the adoption and holding kennels is processed much the same way human waste. It is picked up and flushed in a toilet, and the urine is mopped up then the floors are cleaned with a disinfectant. In the dog park, the owners will be required to pick up after their dog. They will also have staff and volunteers who will make passes through the park to deal with waste.

Commissioner Garcia asked about their proximity to hazardous materials with the two sites nearby. Ms. Beninger stated that they would have a plan for housing animals inside the building. One advantage in the new facility is that they can move all animals inside, and feed them indoors for up to a week. Commissioner Garcia noted that there was a business nearby that had a record of materials in the dirt called Duncan Great Western Chemical Company, which is still under mitigation measures. He asked if the city has any legal responsibility. Mr. Lindsay said no and stated that there is underground water contamination, however, the environmental studies concluded that the surface is clean for animals and humans. Commissioner Garcia asked if there are plans to put directional signs on Milpitas Blvd. or Yosemite. Mr. Lindsay noted that Caltrans has certain types of signage for public facilities. Currently the city sign ordinance prohibits this, however Caltrans standard signs are exempt. He is not sure if Caltrans might have a standard sign that could be used.

Commissioner Sandhu asked if there would be a dog training facility. Ms. Beninger said, but not for police dog training. The training would be for those who have adopted animals and other members of the public for fly ball and agility training.

Commissioner Galang asked about if there is a veterinary doctor present on a daily basis. Ms. Beninger said there would be three veterinarians minimum on staff full time working in the hospital as well as the spay/neuter clinic. Commissioner Galang asked if someone could leave a dog over night. Ms. Beninger said yes.

Motion to approve Environmental Impact Assessment No. EA2004-8, 'S' Zone Approval No. SZ2004-3, Use Permit Approval No. UP2004-7.

M/S: Garcia/Galang

AYES: 6

NOES: 0

There being no further business, the meeting was adjourned at 8:37 p.m. to the next special meeting scheduled on November 17, 2004.

X.
ADJOURNMENT

Respectfully Submitted,

James Lindsey
Acting Planning Manager

Holly Cuciz
Recording Secretary